

REMARKS

Claims 1-5 and 17-24 were before the Office for examination. By way of the instant amendment, Applicants canceled claims 3 and 17-24 and added claim 25. New claim 25 captures the concept of administration of a single dose of test compound in the *in vitro* assay now claimed. Applicants respectfully request entry of the §1.116 amendment because upon entry of the amendment, Applicants submit that claims 1, 2, 4, 5 and 25 will be in condition for allowance or, at the least, in better condition for consideration on appeal.

As previously indicated, Applicants will timely file divisional applications to the non-elected subject matter recited in original claims.

§112, First Paragraph

Applicants amended the claims to recite the types of cells used in the claimed assay(s). Such an amendment should overcome the previously lodged written description rejection. The claims now recite that the cells are selected from the group consisting of human proximal tubule derived HK-2 cells, hamster kidney cells, and hamster liver cells, which are specifically described in the specification.

§102(b)

As stated, Applicants amended the claims to recite specific cell types for use in the claimed assay(s). Claims 21-23 have been canceled, therefore the rejections in view of Way, Jiang, Crabb, and Wu are moot. Gupta (newly cited) fails to teach each element of the claimed assay (e.g., recited cell type, PPAR gene, etc.).

Applicants submit that the instant amendment places the claims in condition for allowance, or in better condition for appeal. Favorable consideration is respectfully requested.

In view of the foregoing, Applicants respectfully request withdrawal of the Office's §102 positions. Should the Office wish to discuss the instant application further, please contact the undersigned.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment, to Account No. 19-3880 in the name of Bristol-Myers Squibb Company.

Respectfully submitted,

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